

REMARKS

Reconsideration and withdrawal of the rejection and the allowance of all claims now pending in the above-identified patent application (*i.e.*, Claims 11-30) are respectfully requested in view of the foregoing amendments and the following remarks.

At the outset, it should be recognized that the present invention provides an apparatus for use in preventing the removal of, or tampering with, a construction fitting that is used for connecting one or more construction elements, *e.g.*, rod or pole-like elements to one another and to other items. Conventionally, such construction fittings, such as those used for a scaffold fitting, are held together using two hinged components with a bolt held in place by one of the two parts, while the other hinged part is retained by a nut. Because such bolt-and-nut retention means are easy to tamper with and thereby loosen, unauthorized removal of the connection between such parts of a construction fitting can represent a significant hazard in the construction industry.

The present invention, as now broadly claimed, addresses the need to prevent the removal of, or tampering with, a construction fitting by providing an apparatus that includes a body portion, along with a fastener for connecting two construction element engaging components to one another. The fastener includes a bolt extending between the two construction element engaging components and a nut for tightening on the bolt for rigidly connecting the two construction element engaging components with a gap therebetween. The nut is defined in Applicant's claims as having a first side facing away from the body portion when the fastener is fitted for connecting the two construction element

engaging components to one another, and a second side of the nut which is opposed to the first side thereof. The body portion, at least partially, covers the nut for preventing access thereto by an unfastening tool and extends from the nut to a position alongside the bolt within the gap. Locking means are movable relative to the body portion between a first position, in which the apparatus is removable from the construction fitting, and a second position in which the apparatus is prevented from being removed from the fitting. The locking means extends, in its second position, from the body portion in a direction toward the bolt with the gap; the second side of the nut is received in the body portion with the locking means being located beyond the first side of the nut for rendering the nut inaccessible, thereby preventing removal of, or tampering with, the construction fitting when the locking means is locked relative to the construction fitting. By stating that the locking means is located “beyond” the first side of the nut, it is to be understood, and has now been clarified in Applicant’s claims, that the locking means is “not between” the first side of the nut and the opposing second side of the nut.

More particularly, the locking means of the presently claimed invention prevents the apparatus from being “pulled off” the nut, thereby preventing tampering of the nut-and-bolt connection. This is achieved by having locking means, that in a first position, in which the apparatus can be fitted and removed, allows the apparatus to pass over the nut, and in a second position, is located closer to the shank of the bolt so that, if an attempt is made to remove the anti-tampering apparatus, the locking means will prevent passage of the apparatus over the nut. The locking means, in its second position, is positioned so that it will strike against the first side of the nut and prevent removal of the anti-tamper-

ing apparatus, which would not be possible if the locking means was located “between” the first side and the second side of the nut. The locking means is located beyond the first side of the nut along the direction of the shank of the bolt for rendering the nut inaccessible to an unfastening tool.

As will be explained in greater detail hereinafter, nowhere in the prior art is such a novel and effective apparatus for preventing removal of, or tampering with, a construction fitting, which includes locking means located beyond each opposing side of a nut – and not located between the opposing two sides – for rendering the nut inaccessible to an unfastening tool when the apparatus is locked, either disclosed or suggested.

By the present amendments, Applicant has now amended independent Claims 11, 19 and 27 (and all remaining claims via dependency) to now clarify that the “locking means,” which is located “beyond” the first side of the nut, is located such that it is “not between” the first and second opposing sides of the nut. As to be explained, the applied prior art of Brushaber, U.S. Patent No. 4,645,422, shows the locking means as being located “between” the two opposing sides of the nut.

Applicant has also amended independent Claim 19, line 20, to delete a redundant phrase noted by the Examiner with respect to the “locking means” recited in Claim 19. The Examiner’s objection to Claim 19, based upon the informality of a redundancy in claim language, should therefore be withdrawn.

The Examiner has further suggested that Applicant might wish to file an Informa-

tion Disclosure Statement to seek formal consideration by the Examiner of Caudell, U.K. Patent Application No. 2,422,412 B, having publication date of July 26, 2004. As discussed in Applicant's prior *Amendment*, filed July 9, 2009, Caudell was filed by Applicant to show the source of the claim language of Claims 27-30 of the instant patent application. Applicant has not requested formal consideration of Caudell, because this British reference has a publication date subsequent to Applicant's effective filing date and, as such, Caudell is not citable as "prior" art against Applicant's claims.

Turning now, in detail, to an analysis of the Examiner's prior art rejection, in the third Office Action the Examiner has again rejected the subject matter of Claims 11-30 as being anticipated, pursuant to 35 U.S.C. §102(b), by Brushaber, U.S. Patent No. 4,645,422, for its contended disclosure of an apparatus for preventing removal of, or tampering with, a construction fitting that includes two element engaging components (27, 28), a fastener (22) for connecting the two engaging components, and which further includes a bolt (22) and a nut (32) for tightening the bolt, thereby rigidly connecting the two construction element engaging components with a gap therebetween. According to the Examiner, Brushaber further discloses a body portion (50) for covering at least a portion of the nut for preventing access thereto and locking means (66) movable relative to the body portion between a first position and a second position, as recited in Applicant's independent Claims 11, 19 and 27, thereby anticipating the claim.

As part of the Examiner's anticipation rejection and rebuttal to Applicant's prior arguments, the Examiner has expressed the view that the locking means (66) of Brusha-

ber can be considered as being “beyond” the first side of the nut therein (*i.e.*, the right side of nut 32.) According to the Examiner, because the locking means are found to the left of the right side of nut 32, the locking means can be considered as being “beyond” the first side of the nut when one labels the first side of the nut (32) as the right side.

In reply to the Examiner’s anticipation rejection applying Brushaber, the applied citation discloses an anti-theft device for marine propellers, which would appear to take the form of a nut (32) having a transverse, threaded bore (38) and a spinner (50), which fits over the nut. The spinner, or body portion, is retained in place on the nut by a lateral lock pin (66), or grub screw, which engages the transverse bore.

In sharp contrast to that taught and suggested by Brushaber, the present invention, as now most broadly recited in amended independent Claims 11, 19 and 27, provides that the locking means is located beyond the first side of the nut – and not “between” the first and second opposing sides of the nut – along the direction of the shank of the bolt, thereby rendering the nut inaccessible to tampering by an unfastening tool, rather than engaging the nut, *per se*, as is taught by Brushaber. The locking means of the present invention, in a first position, can be fitted and removed, which allows the anti-tamper apparatus to pass over the nut and, in a second position, is located closer to the shank of the bolt, so that, if an attempt is made to remove the claimed apparatus, the locking means prevents passage of the apparatus over the nut. This is achieved by the locking means, in its second position, as being positioned such that the locking means will strike against the first side of the nut and prevent removal of the anti-tamper apparatus –

features that are neither taught nor suggested by the prior art.

That the locking means will strike against the first side of the nut to prevent removal of the anti-tamper apparatus is only possible if the locking means is located beyond – and not between – the opposing two sides of the nut, as defined by the Examiner in the third Office Action.

More particularly, referring to FIG. 1 of Brushaber, the Examiner has termed the right hand side (44) of the nut (32) as the “first side” and the opposed side of the nut (32) (on the left-hand side of FIGS. 1 and 2) as the “second side.” The “locking means” in Brushaber is designated by reference numeral “66.” When the “body portion” is locked onto the nut via the locking means (66), the nut (32) is not located “beyond” the first side (44), as shown in FIG. 1, but, instead, the nut (32) is located between the first and second opposing sides of the nut (32). Applicant’s pending independent Claims 11, 19 and 27 have each been amended to clarify that the locking means is “not between” the first side and the opposing second side of the nut, in contrast to that clearly taught by, and shown in FIGS. 1 and 2, of Brushaber.

In light of the foregoing, it is respectfully contended that the Examiner’s 35 U.S.C. §102(b) anticipation rejection of Claim 11-30 the third Office Action, which applies Brushaber, has now been overcome and it is respectfully requested that the issued anticipation rejection be withdrawn.

In view of the foregoing, it is respectfully contended that all claims now pending

in the above-identified patent application (*i.e.*, Claims 11-30) recite a novel and effective apparatus for preventing removal of, or tampering with, a construction fitting, which includes locking means located beyond a side of a nut – and not between opposing sides of the nut – which renders the nut inaccessible to an unfastening tool when the locking means is locked, which is patentably distinguishable over the prior art. Accordingly, withdrawal of the outstanding rejection and the allowance of all claims now pending are respectfully requested and earnestly solicited.

Respectfully submitted,

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January 20, 2010

Enc.: 1. Petition for Two-Month Extension of Time for Response; and,
2. EFT for \$245.00 (Two-Month Extension Fee).

The Commissioner for Patents is hereby authorized to charge the Deposit Account of Applicant's Attorney (*Account No. 19-0450*) for any fees or costs pertaining to the prosecution of the above-identified patent application, but which have not otherwise been provided for.